

SOUTH WHITTIER SCHOOL DISTRICT

Audit Report

COLLECTIVE BARGAINING PROGRAM

Chapter 961, Statutes of 1975,
and Chapter 1213, Statutes of 1991

July 1, 2008, through June 30, 2010



JOHN CHIANG
California State Controller

May 2013



JOHN CHIANG
California State Controller

May 15, 2013

Sharon Stys, President
Board of Education
South Whittier School District
11200 Telechron Avenue
Whittier, CA 90605

Dear Ms. Stys:

The State Controller's Office audited the costs claimed by South Whittier School District for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2008, through June 30, 2010.

The district claimed \$577,877 for the mandated program. Our audit found that \$175,149 is allowable and \$402,728 is unallowable. The costs are unallowable primarily because the district claimed unsupported costs, claimed costs that are not reimbursable per the parameters and guidelines, and under-claimed indirect costs associated with contract services. The State paid the district \$53,935. The State will pay allowable costs claimed that exceed the amount paid, totaling \$121,214, contingent upon available appropriations.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the CSM's website at www.csm.ca.gov/docs/IRCFrm.pdf.

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, at (916) 323-5849.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/vb

cc: Erich Kwek, Ed.D., District Superintendent
South Whittier School District
Lily Huntenburg, Director of Fiscal Services
South Whittier School District
Cecilia Laidemitt, Associate Superintendent of
Administrative Services and Personnel Management
South Whittier School District
Rudell S. Freer, President, Board of Education
Los Angeles County Office of Education
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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by South Whittier School District for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2008, through June 30, 2010.

The district claimed \$577,877 for the mandated program. Our audit found that \$175,149 is allowable and \$402,728 is unallowable. The costs are unallowable primarily because the district claimed unsupported costs, claimed costs that are not reimbursable per the parameters and guidelines, and under-claimed indirect costs associated with contract services. The State paid the district \$53,935. The State will pay allowable costs claimed that exceed the amount paid, totaling \$121,214, contingent upon available appropriations.

Background

In 1975, the State enacted the Rodda Act (Chapter 961, Statutes of 1975), requiring the employer and employee to meet and negotiate, thereby creating a collective bargaining atmosphere for public school employers. The legislation created the Public Employment Relations Board to issue formal interpretations and rulings regarding collective bargaining under the Act. In addition, the legislation established organizational rights of employees and representational rights of employee organizations, and recognized exclusive representatives relating to collective bargaining.

On July 17, 1978, the Board of Control (now the Commission on State Mandates [CSM]) determined that the Rodda Act imposed a state mandate upon school districts reimbursable under Government Code section 17561.

Chapter 1213, Statutes of 1991, added Government Code section 3547.5, requiring school districts to publicly disclose major provisions of a collective bargaining effort before the agreement becomes binding.

On August 20, 1998, the CSM determined that this legislation also imposed a state mandate upon school districts reimbursable under Government Code section 17561. Costs of publicly disclosing major provisions of collective bargaining agreements that districts incurred after July 1, 1996, are allowable.

Claimants are allowed to claim increased costs. For components G1 through G3, described below, increased costs represent the difference between the current-year Rodda Act activities and the base-year Winton Act activities (generally, fiscal year 1974-75), as adjusted by the implicit price deflator. For components G4 through G7, increased costs represent actual costs incurred.

The seven components are as follows:

- G1 Determining bargaining units and exclusive representatives
- G2 Election of unit representatives
- G3 Costs of negotiations
- G4 Impasse proceedings
- G5 Collective bargaining agreement disclosure
- G6 Contract administration
- G7 Unfair labor practice costs

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on October 22, 1980 and amended them ten times, most recently on January 29, 2010. In compliance with Government Code section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated program reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Collective Bargaining Program for the period of July 1, 2008, through June 30, 2010.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit found instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, South Whittier School District claimed \$577,877 for costs of the Collective Bargaining Program. Our audit found that \$175,149 is allowable and \$402,728 is unallowable.

For the fiscal year (FY) 2008-09 claim, the State paid the district \$23,653. Our audit found that \$56,699 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$33,046, contingent upon available appropriations.

For the FY 2009-10 claim, the State paid the district \$30,282. Our audit found that \$118,450 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$88,168, contingent upon available appropriations.

**Views of
Responsible
Official**

We issued a draft audit report on February 20, 2013. We contacted Lily Huntenburg, Director of Fiscal Services, via email inquiring whether the district had a response to the findings presented in the draft report. Ms. Huntenburg stated that the district declined to respond to the draft report. However, Ms. Huntenburg provided documentation supporting costs for two grievance cases claimed during the audit period. As a result, allowable costs increased by \$4,352, from \$170,797 to \$175,149.

Restricted Use

This report is solely for the information and use of South Whittier School District, the Los Angeles County Office of Education, the California Department of Education, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

May 15, 2013

Schedule 1— Summary of Program Costs July 1, 2008, through June 30, 2010

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2008, through June 30, 2009</u>				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	\$ 32,079	\$ 12,379	\$ (19,700)	Finding 1
Contract services	47,963	36,590	(11,373)	Finding 2
Subtotal	80,042	48,969	(31,073)	
Less base year direct costs adjusted by implicit price deflator	—	—	—	
Increased direct costs, G1 through G3	80,042	48,969	(31,073)	
Component activities G4 through G7:				
Salaries and benefits	39,265	1,419	(37,846)	Finding 1
Contract services	67,667	3,274	(64,393)	Finding 2
Increased direct costs, G4 through G7	106,932	4,693	(102,239)	
Total increased direct costs, G1 through G7	186,974	53,662	(133,312)	
Indirect costs	4,038	3,037	(1,001)	Findings 1, 3
Total program costs	<u>\$ 191,012</u>	56,699	<u>\$ (134,313)</u>	
Less amount paid by the State		(23,653)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 33,046</u>		
<u>July 1, 2009, through June 30, 2010</u>				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	\$ 131,888	\$ 10,612	\$ (121,276)	Finding 1
Materials and supplies	4,765	4,765	—	
Contract services	154,913	80,865	(74,048)	Finding 2
Subtotal	291,566	96,242	(195,324)	
Less base year direct costs adjusted by implicit price deflator	—	—	—	
Increased direct costs, G1 through G3	291,566	96,242	(195,324)	
Component activities G4 through G7:				
Salaries and benefits	31,866	5,605	(26,261)	Finding 1
Contract services	51,671	8,876	(42,795)	Finding 2
Increased direct costs, G4 through G7	83,537	14,481	(69,056)	
Total increased direct costs, G1 through G7	375,103	110,723	(264,380)	
Indirect costs	11,762	7,727	(4,035)	Findings 1, 3
Total program costs	<u>\$ 386,865</u>	118,450	<u>\$ (268,415)</u>	
Less amount paid by the State		(30,282)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 88,168</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>Summary: July 1, 2008, through June 30, 2010</u>				
Total increased direct costs	\$ 562,077	\$ 164,385	\$ (397,692)	
Indirect costs	<u>15,800</u>	<u>10,764</u>	<u>(5,036)</u>	
Total program costs	<u>\$ 577,877</u>	175,149	<u>\$ (402,728)</u>	
Less amount paid by the State		<u>(53,935)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 121,214</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unsupported salaries, benefits, and related indirect costs

The district claimed \$235,098 in salaries and benefits during the audit period. We determined that \$30,015 is allowable and \$205,083 is unallowable. Related unallowable indirect costs total \$13,556.

We initially determined that all of the costs claimed were unallowable because the district did not provide any documentation supporting costs claimed. During audit fieldwork, the district provided personal calendars for two employees, the Assistant Superintendent of Business Services and the Associate Superintendent of Administrative Services and Personnel Management. We corroborated time recorded on these calendars with attorney invoices and determined allowable salaries and benefits totaling \$30,015.

The following table summarizes the salaries, benefits, and indirect costs by reimbursable component for the audit period:

Reimbursable Component	Amount Claimed	Amount Allowable	Audit Adjustment
<u>FY 2008-09</u>			
Salaries and benefits:			
Cost of negotiations	\$ 32,079	\$ 12,379	\$ (19,700)
Contract administration	39,265	1,419	(37,846)
Subtotal, salaries and benefits	71,344	13,798	(57,546)
Related indirect costs	4,038	781	(3,257)
Subtotal, salaries, benefits, and indirect costs	75,382	14,579	(60,803)
<u>FY 2009-10</u>			
Salaries and benefits:			
Cost of negotiations	131,888	10,612	(121,276)
Impasse proceedings	26,093	5,605	(20,488)
Collective bargaining agreement disclosure	3,987	-	(3,987)
Contract administration	893	-	(893)
Unfair labor practice charge	893	-	(893)
Subtotal, salaries and benefits	163,754	16,217	(147,537)
Related indirect costs	11,430	1,131	(10,299)
Subtotal, salaries, benefits, and indirect costs	175,184	17,348	(157,836)
<u>Total</u>			
Salaries and benefits:			
Cost of negotiations	163,967	22,991	(140,976)
Impasse proceedings	26,093	5,605	(20,488)
Collective bargaining agreement disclosure	3,987	-	(3,987)
Contract administration	40,158	1,419	(38,739)
Unfair labor practice charge	893	-	(893)
Total, salaries and benefits	235,098	30,015	(205,083)
Related indirect costs	15,468	1,912	(13,556)
Total, salaries, benefits, and indirect costs	\$ 250,566	\$ 31,927	\$ (218,639)

The program's parameters and guidelines (section G) state:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Component G3 – Cost of Negotiations

For the Cost of Negotiations cost component, the district claimed \$163,967 (\$32,079 in FY 2008-09 and \$131,888 in FY 2009-10). We determined that \$22,991 is allowable and \$140,976 is unallowable. The costs are unallowable because the district did not provide documentation supporting the costs claimed.

With the exception of substitute costs, the district's mandate claims filed for FY 2008-09 and FY 2009-10 did not differentiate between the various reimbursable activities, as required by the claiming instructions. Reimbursable activities include at-table negotiations, negotiation planning sessions, holding of public hearings, and development and presentation of the initial district contract proposal.

Substitute Costs

The district claimed \$14,000 for FY 2009-10 for substitutes to fill-in while union representatives attended at-table negotiations. The district estimated the amount claimed (eight negotiation sessions times five substitutes times a \$350 per diem per day). The district provided a spreadsheet listing substitute coverage required for both the South Whittier Classified School Employees Association (CSEA) and the South Whittier Teachers Association (SWTA) for FY 2009-10; however, the district did not provide at-table negotiation sign-in sheets. Consequently, the district did not corroborate the attendance of the exclusive bargaining unit representative during at-table negotiations for which the substitute was required.

Other Negotiation Costs

The district claimed \$149,967 (\$32,079 for FY 2008-09 and \$117,888 for FY 2009-10) for three employees for FY 2008-09 and seventeen employees for FY 2009-10. As noted previously, the district provided only two calendars in support of the costs claimed. The two calendars identified dates the employees attended at-table negotiation sessions, and, in a few instances, time spent at each at-table negotiation session. Since the length of time was not always identified on the two calendars, we corroborated the calendar entries to a corresponding entry on the external attorney invoice, which provided a detailed account of the dates and starting/ending times for each at-table negotiation session. The external attorney always participated in the at-table negotiation session.

As a result, we determined that \$22,991 (\$12,379 for FY 2008-09 and \$10,612 for FY 2009-10) is allowable.

Component G4 – Impasse Proceedings

For the Impasse Proceedings cost component, the district claimed \$26,093 for FY 2009-10. We determined that \$5,605 is allowable and \$20,488 is unallowable.

The district's claim identifies four employees participating in impasse proceedings. However, as previously noted, the district provided only two calendars to support the costs claimed. Again, we reconciled the information on the two calendars against the detailed attorney logs and determined the costs to be allowable if the two documents reconciled. As a result, we determined that \$5,605 is allowable. The district did not provide any support for the remaining costs.

Component G6 – Contract Administration

For the Contract Administration cost component, the district claimed \$40,158 (\$39,265 for FY 2008-09 and \$893 for FY 2009-10). We determined that \$1,419 is allowable and \$38,739 is unallowable. The costs are unallowable because the district did not provide documentation supporting the costs claimed.

The district's claim identifies four employees in FY 2008-09 and two employees in FY 2009-10 participating in contract administration and adjudication of contract disputes. However, as previously noted, the district provided only calendars to support the costs claimed. While reviewing two contract dispute grievance cases claimed for the Contract Services cost element, we found that the district could support some salary and benefit costs claimed. Since the length of time spent in grievance meetings was not documented in the grievance cases, we corroborated the dates of grievance meetings and the dates of grievance discussions to a corresponding entry on the external attorney invoice. As a result, we determined that \$1,419 is allowable. The district did not provide any support for the remaining costs.

Components G5 and G7

All of the costs claimed for the following two cost components are also unallowable because the district did not provide any documentation supporting the costs claimed:

- Component G5 - Collective Bargaining Agreement Disclosure

For the Collective Bargaining Agreement Disclosure cost component, the district claimed \$3,987 for FY 2009-10. Reimbursable costs include disclosure of the collective bargaining agreement *after* negotiations and *before* adoption by the governing body.

- Component G7 - Unfair Labor Practice Adjudication Process and Public Notice Complaints

For the Unfair Labor Practice Charges cost component, the district claimed \$893 for FY 2009-10. Reimbursable costs include adjudication of unfair labor practices and public notice complaints.

Recommendation

We recommend that the district ensure that all costs claimed are reimbursable per the parameters and guidelines, and are properly supported. Supporting documentation should identify the mandated functions performed as required by the claiming instructions.

FINDING 2— Unallowable contract services and related indirect costs

The district claimed \$322,214 in contract services for the audit period. We determined that \$129,605 is allowable and \$192,609 is unallowable. The costs are unallowable primarily because the activities claimed are not reimbursable under the parameters and guidelines.

The following table summarizes the claimed, allowable, and unallowable contract services by reimbursable component for the audit period:

<u>Reimbursable Component</u>	<u>Amount Claimed</u>	<u>Amount Allowable</u>	<u>Audit Adjustment</u>
<u>FY 2008-09</u>			
Contract services:			
Cost of negotiations	\$ 47,963	\$ 36,590	\$ (11,373)
Contract administration	67,667	3,274	(64,393)
Subtotal, contract services	<u>115,630</u>	<u>39,864</u>	<u>(75,766)</u>
<u>FY 2009-10</u>			
Contract services:			
Cost of negotiations	154,913	80,865	(74,048)
Impasse proceedings	41,074	-	(41,074)
Contract administration	1,721	-	(1,721)
Unfair labor practice charge	8,876	8,876	-
Subtotal, contract services	<u>206,584</u>	<u>89,741</u>	<u>(116,843)</u>
<u>Total</u>			
Contract services:			
Cost of negotiations	202,876	117,455	(85,421)
Impasse proceedings	41,074	-	(41,074)
Contract administration	69,388	3,274	(66,114)
Unfair labor practice charges	8,876	8,876	-
Total, contract services	<u>\$ 322,214</u>	<u>\$ 129,605</u>	<u>\$ (192,609)</u>

Component G3 – Cost of Negotiations

For the Cost of Negotiations cost component, the district claimed \$202,876 for the audit period. We determined that \$117,455 is allowable and \$85,421 is unallowable.

The district claimed \$25,953 (\$11,272 for FY 2008-09 and \$14,681 for FY 2009-10) for general legal advice. Of that amount, \$21,937 (\$7,357 for FY 2008-09 and \$14,580 for FY 2009-10) was not described on the attorney invoice as relating to negotiations; therefore, the costs are unallowable.

The district claimed \$24,638 (\$5,299 for FY 2008-09 and \$19,339 for FY 2009-10) for legal support on layoffs of both certificated and classified personnel. Of that amount, \$23,355 (\$4,016 for FY 2008-09 and \$19,339 for FY 2009-10) was described on the invoices as relating to implementation of layoffs. The parameters and guidelines limit reimbursement to the negotiation of the contract rather than implementation of a particular contract provision.

The district claimed \$40,129 for FY 2009-10 for Vavrinek, Trine, Day, and Co. to prepare for CSEA fact-finding in support of the district's position, which is unallowable. The parameters and guidelines allow special costs imposed on the employer by the fact-finding panel. In addition, reimbursable fact-finding preparation costs should be claimed under the Impasse Proceeding cost component.

The district also claimed \$112,156 (\$31,392 for FY 2008-09 and \$80,764 for FY 2009-10) for costs that relate to negotiations, which are allowable.

Component G4 – Impasse Proceedings

For the Impasse Proceedings cost component, the district claimed \$41,074 for FY 2009-10 for fact-finding costs incurred by Atkinson, Andelson, Loya, Ruud, and Romo. The costs are unallowable because the costs claimed relate to CSEA fact-finding preparation to support the district's position, totaling \$22,984, and other costs were unsupported, totaling \$18,090, from March 2010. As noted above, the parameters and guidelines allow for special costs imposed on the employer by the fact-finding panel.

Component G6 – Contract Administration

For the Contract Administration cost component, the district claimed \$69,388 (\$67,667 for FY 2008-09 and \$1,721 for FY 2009-10). We determined that \$3,274 is allowable and \$66,114 is unallowable.

The Contract Administration cost component includes contract administration and adjudication of contract disputes either by arbitration or litigation. The parameters and guidelines allow costs for grievances, and administration and enforcement of the contract. The parameters and guidelines do not reimburse costs for personnel issues.

The district claimed the following costs that are not reimbursable under the parameters and guidelines:

- Costs totaling \$56,936 for FY 2008-09 to implement certificated and classified layoffs. The parameters and guidelines do not provide reimbursement to implement terms and conditions of a particular contract provision.

- Costs totaling \$6,007 (\$4,286 for FY 2008-09 and \$1,721 for FY 2009-10) for general legal advice. The attorney invoices did not describe the activity as relating to contract administration.
- Costs totaling \$3,171 for FY 2008-09 relate to miscellaneous printing and shipping costs. The district did not provide any documentation supporting the costs claimed.

Recommendation

We recommend that the district ensure that all costs claimed are reimbursable per the parameters and guidelines, and are properly supported. Supporting documentation should identify the mandated functions performed as required by the claiming instructions.

FINDING 3— Unclaimed indirect costs on contract services

The district did not claim indirect costs for contract services totaling \$8,520 (\$2,256 for FY 2008-09 and \$6,264 for FY 2009-10). We determined allowable indirect costs by multiplying allowable contract services by the indirect cost rates claimed by the district, which agreed to the rates approved by the California Department of Education (CDE).

The parameters and guidelines allow indirect cost rates provisionally approved by the CDE. The CDE indirect cost rates apply to direct costs (salaries and benefits, materials and supplies, and contract services). The error occurred because the district followed the claiming instructions that inadvertently excluded contract services from the calculation of indirect costs. The claiming instructions have since been corrected.

The following table summarizes the calculation of unclaimed indirect costs on contract services for the audit period:

Description	Fiscal Year		Total
	2008-09	2009-10	
Allowable contract services	\$ 39,864	\$ 89,741	
Indirect cost rate	5.66%	6.98%	
Audit adjustment	<u>\$ 2,256</u>	<u>\$ 6,264</u>	<u>\$ 8,520</u>

Recommendation

We recommend that the district follow the updated guidance in the claiming instruction for calculating indirect costs on contract services.

**State Controller's Office
Division of Audits
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